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DOCKET NUMBER
~~PRM-73-11~~ PRM 73-11
(66FR55603)

Ms. Annette Vietti-Cook
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C.
20555-0001

Attention: Rulemakings and Adjudications Staff

Subject: Comments on Petition for Rulemaking

Docket Number PRM-73-11
66FR55603, dated November 2, 2001

Duke Energy Corporation has reviewed the petition for rulemaking regarding physical plant security in Docket Number PRM-73-11. Duke Energy Corporation opposes the petitioner's request that the NRC regulations governing physical protection of plants and materials be amended to require NRC licensees to post at least one armed guard at each entrance to the "owner controlled areas" (OCAs) surrounding all U.S. nuclear power plants.

Duke Energy Corporation fundamentally opposes the petitioner's request because there is no demonstrative security benefit. The basis for this conclusion is summarized in this letter.

The petitioner does not define an entrance to the owner controlled area and as such it is unclear the scope of types of entrances that would require an armed guard. For example, waterfronts, footpaths and roadways may be perceived as entrances.

The petitioner does not provide an adequate factual basis to support the assertion that a single armed guard at such "entrances" would provide substantive security benefit. It is not clear that any review of security tactics and strategies were employed to develop this recommendation and as such it is difficult to evaluate the effectiveness of such a proposal.

Template = SECY-067

SECY-02

Security plans are comprehensive integrated plans. The contents of integrated plans are not available to the public. As such, the petitioner does not have sufficient knowledge of the integrated plans to ascertain the effect the proposed change would have on overall security.

The petition requests promulgation of a rule at a level of detail which is more appropriate for incorporation in facility operating security plans or operating documents. This allows licensees flexibility in responding to a wide range of security threats. The regulations should more appropriately reflect objectives of effective security systems, not specific means such as those suggested by the petitioner.

Duke Energy Corporation also opposes the petitioner's request because the NRC is currently conducting a comprehensive reexamination of its security requirements including the issues raised in this petition as result of the attacks on the World Trade Center and the Pentagon on September 11, 2001. Consequently, the petitioner's narrowly focused request for rulemaking is premature and redundant to that effort. Commissioner Meserve's letter to Senator Reid¹ reflected a concern for premature revisions in the legal or regulatory security framework before the completion of this assessment.

If there are any questions regarding this matter, please contact Terry Keener at (704) 382-2056.

Sincerely,



M. S. Tuckman

¹ Letter dated November 28, 2001, regarding the draft legislation entitled "The Nuclear Security Act of 2001"